

CERCLA Implications

Since liability for the site remediation may be an issue in this case, TECHRAD suggests that any remediation plans or agreements should consider CERCLA implications. A brief outline of CERCLA is included below:

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund)

1. CERCLA (Superfund) (42 U.S.C. § 9601, et. seq.) was enacted in 1980 for the purpose of cleaning-up sites in which there had been a release of hazardous substances or there exists a threatened release of hazardous substances to the environment.
2. The E.P.A. investigates sites in which hazardous substances have been deposited and ranks the sites in accordance with the Hazard Ranking System. If the site poses a threat to the environment severe enough to warrant remediation and response, the site is placed on the National Priority List of Superfund sites.
3. Government action for response (cleanup) costs under Section 107(a) of the Act (42 U.S.C. § 9607(a) must establish:
 - a facility;
 - from which a release or threatened release of a hazardous substance takes place;
 - causing response costs to be incurred by the Government;
 - the responsible parties are: (1) present owners or operators of the facility, (2) past owners or operators of the facility when hazardous substances were disposed, (3) persons who arranged for disposal (generators) of the hazardous substances; or, (4) persons who transported the hazardous substances to the facility; and,
 - the response is in accord with the National Contingency Plan (NCP).
4. CERCLA imposes strict and joint and several liability upon owners, operators and Potentially Responsible Parties (PRP's) of some contaminated sites.

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